

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department - Andhra Pradesh Scheduled Area Land Transfer Regulation 1959 - Khammam District - Revision Petition filed by Sri Tummala Bhaskar Rao (Non-Tribe), S/o.Subbaiah R/o.Asannagudem (V), Dhammapeta (M), Khammam District against the orders of the Additional Agent to Government in C.M.A No.68/2007 Dated: 28.06.2008- Rejected - Orders - Issued.

SOCIAL WELFARE (LTR.2) DEPARTMENT

G.O.MS.No: 14

Dated:30.01.2014
Read the following:-

1. From Sri Tummala Bhaskar Rao, S/o. Subbaiah R/o.Asannagudem (V), Dhammapeta (M), Khammam District dt.22.09.2008.
2. Govt.Memo.No.9087/LTR-2/2008, dt.05.12.2008.
3. From the Additional Agent to Government, Bhadrachalam, Khammam District R.P.No.9087/LTR-2/08, dt.16.02.2009.
4. Govt.Lr.No.9087/LTR-2/2008,dt.17.04.2012,27.06.2012, 19.10.2012, 02.09.2013.

ORDER:-

In the reference first read above, Sri Tummala Bhaskar Rao (Non-Tribe), S/o.Subbaiah R/o.Asannagudem (V), Dhammapeta (M), Khammam District has filed Revision Petition before the Government against the orders of the Additional Agent to Government, Bhadrachalam, Khammam in C.M.A No.68/2007 dated 28.06.2008, wherein the Additional Agent to Government has set aside the orders of the Special Deputy Collector (Tribal Welfare), Bhadrachalam in LTR Case Nos.375/2005/DPT dt.19.10.2005 and 102/2000/DPT Dated:14.03.2001, in respect of land Acres.4.16 guntas in Sy.No.1294 of Nagupalli Village, Dammmapeta Mandal, Khammam District.

2. The following are the principal contents urged in the Revision Petition:-

- (i) Additional Agent to Government under revision is antedated, arbitrary, nullity, not in appreciation of the facts in accordance with law, ultra vires the provisions of L.T. Regulation 1/1959 as amended by Regulation 1/1970, excess of jurisdiction, against the principles of natural justice, against the binding precedents of the Hon'ble High Court of Judicature of A.P. and the Hon'ble Supreme Court of India.
- (ii) Order passed by the Additional Agent to Government without considering the fact of death of the S/o and that appeal was file on 21.01.06 without any cogent reason or registering the CMA in the year 2007 is not justifiable.
- (iii) Sri Potta Yarriyappa has received the impugned order Dated: 19.10.2005 in LTR Case No.376/2005/DPT on 02.11.2005 and the appeal was filed on 21.01.2006. Therefore the appeal is within time is not true and correct and Appeal was numbered in the year 2007. The Additional Agent to Government ought to have verified by calling the concerned registered consisting of the S.R. Number of the appeal and enquired the reasons for not numbering the appeal from 21.01.2006 till the year 2007.

(P.T.O.)

- (iv) Additional Agent to Government has no jurisdiction or authority to adjudicate any thing in respect of the possession of the petitioners who are claiming possession by way of succession and in pursuant to sale transaction Dated.22.01.1962 long prior to the commencement of the Regulation.
- (v) The possession of the priority is since long prior to Regulation and the transaction was duly admitted by the ancestral of Sri Potta Yariyappa in LTR case No.1201/1979 and ought to have dismissed the appeal.
- (vi) In view of the regularizing the sale transaction by the Competent Authorities under ROR Act, the claim of the 4th Respondent (Sri Potta Yariyappa) (Tribal) is purely civil nature and ought to have appreciated that, being the appellate authority under Regulation 1/1959 as amended by Regulation 1/1970, it has no jurisdiction to observed any thing against the process done by the competent authorities under R.O.R. Act, and ought to have recognized the petitioner as the title holder of the subject land and ought to have dismissed the appeal.
- (vii)It is not justified in directing the Tahsildar to take over possession of the schedule land while allowing the appeal.
- (viii) The observation of the Additional Agent to Government, Bhadrachalam that an appeal lies against the impugned order to Government is not correct, and failed to note that the provisions of Regulations 1/59 do not any provision of appeal against the orders of the Additional Agent to Government which is passed by exercising its power as Appellate Authority.
- (ix) That the order under revision is against the binding decisions of the Hon'ble High Court of Judicature A.P. reported in 2006(2) ALD 246 in WP No.5320/05 ALT 2000 (Rev) page 66 & 88 in Kola Mahalaxmi Vs Spl. Deputy Collector(TW) and the full bench decision of Hon'ble High Court Apex Court reported in 1995 SCC 545.

3. The Project Officer, ITDA, Bhadrachalam, Khammam District who was consulted in the matter vide reference 2nd read above has sent parawise remarks and connected case records on the Revision Petition in the reference 3rd read above. The parawise remarks are as follows:-

In reply to the Ground No.1: It is submitted that the order of the Additional Agent to Government, Bhadrachalam 1st respondent is not antedated and it was passed after due verification and considering the Written Arguments.

In reply to the Ground No.2: It is submitted that it is not correct to say without calling for connected records from the Special Deputy Collector (TW) as 2nd respondent, passed orders. The Additional Agent to Government as 1st respondent while passing the orders after examine the lower court case record and passed orders.

In reply to the Ground No.3: It is submitted that the Potta Yariyappa as 4th respondent filed the appeal on 21.1.2006 stating that he received order on 22.11.2005. According to that the said appeal is filed in time.

(P.T.O.)

In reply to the Ground No.4 & 5:- it is submitted that as per the pahanies filed by the Potta Yariyappa (4th Respondent) before the Additional Agent to Government, Bhadrachalam from one Potta Venkappa was shown as pattedar from years 1961-62, 1962-63, 1965-66, 1967-68 and the name of Potta Yariyappa and his family members shown as pattadars in the year 1970-71. Only in the year 1965-66, the name of Tummala Subbaiah shown as enjoyer in col.No.16. It is clear that he is not the pattedar and land belongs to Tribal family who is the Potta Yariyappa as 4th Respondent. The Revision Petitioner has filed written arguments along with a Xerox copies of order in LTR case No.1201/74, 102/2000/DPT. As seen from the orders 375/05 the case is dropped basing on the above said orders. It means the lower court (Special Deputy Collector (TW)) without proper verification of the records passed orders. The Revision Petitioner has not filed any documentary proof to show that his possession is prior to the regulation. Therefore the 1st respondent after due enquiry passed order.

In reply to the Ground No.6: It is submitted that the Revision Petitioner has filed Xerox copy of 13-B certificate before the Additional Agent to Government as 1st Respondent. The Revenue authorities while issuing pattedar pass books and 13-B certificates must verify whether the sale transition has taken prior to the regulation, then only the pattedar pass book/13-B certificates should be issued. But in this case the authorities have not observed the rules and regulations and issued 13-B certificate without observing the Regulation as the schedule land is situated in the schedule area.

In reply to the Ground No.7: It is submitted that the Additional Agent to Government as 1st respondent rightly directed the Tahsildar as 3rd respondent to take possession by conducting a panchanama after due enquiry with record passed such order.

In reply to the Ground No.8: It is submitted that the Regulation provides Revision to the Government against the orders of the Additional Agent to Government., Bhadrachalam. The Revision Petitioner filed the Revision before the Government as per the Regulation.

In reply to the Ground No.9: It is submitted that Revision Petitioner has not filed any document to prove his title. Hence the decisions of the Hon'ble High Court furnished by the Revision Petitioner not applicable to this case.

4. The Revision Petition has been called for hearing on 30.04.2012, 29.10.2012 and finally heard on 12.09.2013. During the hearings both the parties were present and filed written arguments.

5. Government consequent on hearing the case and on perusal of the records, it has been observed that as per the pahanies filed by Sri Potta Yariyappa from one Potta Venkappa was shown as pattedar from years 1961-62, 1962-63, 1965-66, 1967-68 and the name of Potta Yariappa and his family members shown as pattadars in the year 1970-71. Only in the year 1965-66 the name of Tummala Subbaiah shown as enjoyer in col.No.16. It is clear that he is not the pattedar and land belongs to Tribal family who is the Potta Yariyappa. The Revision Petitioner has not filed any documentary proof to show that his possession is prior to the regulation. The authorities have not observed the rules and regulations and issued 13-B certificate without observing the Regulation as the schedule land is situated in the scheduled area. The Revision Petitioner has not filed any document to prove his title prior to the regulation 1/59 as amended by 1/70.

(P.T.O.)

6. In view of the above, Government has felt that the transfer of the suit land took place in contravention of the LTR 1/59 read with 1/70 and that the Additional Agent to Government, Bhadrachalam, Khammam District has rightly adjudged the C.M.A No.65/2007 filed by the Tribal Petitioner Sri Potta Yariyappa in respect of the suit land and the Revision Petitioner in the Revision Petition (Non-Tribe) has not adduced any fresh grounds in support of his claim.

7. Therefore Government hereby order upheld the orders of the Additional Agent to Government, Khammam District in C.M.A No.65/2007, Dated.28.06.2008.

8. The Additional Agent to Government, Khammam District is requested to take necessary action in the matter accordingly and acknowledge the receipt of the case records which are returned herewith.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr. A. VIDYASAGAR,
PRINCIPAL SECRETARY TO GOVERNMENT (TW)

To

The Collector & District Magistrate & Agent to Government, Khammam District.

The Additional Agent to Government & Project Officer, ITDA

Bhadrachalam, Khammam.(w.e.)

Sri Tummala Bhaskar Rao (Non-Tribe), S/o.Subbaiah R/o.Asannagudem (V),
Dhammapeta (M), Khammam District.

Copy to:

Sri Potta Yariyappa S/o.Venkappa R/o.Thottipampu (V), Dhammapeta, Mandal,
Khammam District.

The Government Pleader for Social Welfare, A.P.H.C., Hyderabad.

The P.S to M (TW) for information/

The P.S to Principal Secretary to Government (TW)

SF/SC.

// FORWARDED:: BY ORDER //

SECTION OFFICER